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Some considerations on the proposed Method of disfranchising a Parish.

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THE question of what is and what is not the authoritative teaching of the "Protestant Episcopal Church in the United States of America" with regard to the Holy Eucharist and to Confession and Absolution, and other matters of doctrine or practice, has lately arisen and been discussed under circumstances of special local interest in the diocese of Pennsylvania.

There is another question of no less practical importance, and one too which there seems some danger of leaving in the background if not entirely out of sight; and that is "What is to be done with Congregations now in union with the diocesan Convention if it be alleged that in them doctrines are taught and practices upheld at variance with the teaching of the Church Standards in the above mentioned or in any ways?"

It should be carefully borne in mind that this question is an entirely distinct one from the other.

The first involves simply the question of what is and what is not in conformity with "the doctrine, discipline and usages of the P. E. Church in the United States." That is a question to be settled —if it ever can be settled—by the theologians or the casuists.

The second involves simply the question—"Supposing any Congregation—churchwardens, vestry, and people—are not in such conformity, and refuse such conformity, and are already in union with the convention of the diocese, *how is such union to be dissolved?*" This is a question to be settled by the Convention itself, and it does not involve a consideration of the arguments involved in the first question, for it presupposes that they have already been considered and that a definite and authoritative conclusion concerning them has been reached. Of course it does involve a consideration of whether such a definite and authoritative conclusion has or has not been reached.

The question at issue, then, may be briefly put thus: "Which law is to govern the Convention of the diocese of Pennsylvania, Canon law? or 'the will or decree of a mob or multitude, as a substitute for the common or the civil law'?" which is, according to Worcester's Dictionary, *Lynch-law;* the same authority defining

"mob" to be "a crowd excited to some violent or unlawful act"; and "unlawful" being also defined as what is "not permitted by law" as well as what is "contrary to law". It should be clearly noted that the latter definition involves the fact that there is a law in existence which is violated: the former that there is no law which bears upon the case: a distinction not always clearly kept in view.

Which shall it be then: Canon law? or Lynch-law? That and that only is the question at issue in the case under consideration.

Every one at all acquainted with the circumstances attending the revival among us of the discussions of the disputed points of doctrine and practice knows that these discussions are the result of the method of dealing with St. Clement's Church, Philadelphia, which was proposed in the last diocesan Convention, (May, 1878.)

With the "extreme" way of doing things in that Parish the present writer is not in will or in practice identified; a fact which need not be stated to those among whom he has ministered for fifteen years; nor would it be stated at all were it not felt that to some others the considerations hereinafter set forth may have more weight if it be understood that he is not "tainted" with "ritualism." For the clergy and congregation of St. Clement's he has a thorough respect as for Christian people who have decided convictions of truth and act up to them: but his "way" differs from theirs most decidedly. He also holds that they are as much entitled to the protection of Canon law as any congregation in the diocese; and that neither Bishop, nor Standing Committee, nor Convention, has any right or power to deal with them except in accordance with *law; i. e.*, Canon law, *not* Lynch-law.

A consideration of the law of the case demands a consideration of the facts of the case.

The Convention of the diocese assembled on the 7th of May, 1878.

On the second day of the Session the following preambles and resolution were offered, viz:

"WHEREAS, The first Article of the Constitution of the Protestant Episcopal Church, in the Diocese of Pennsylvania, declares that

'This Church, as a constituent part of the Protestant Episcopal Church of the 'United States of America, accedes to, recognizes, and adopts the General Con-'stitution of that Church, and acknowledges its authority accordingly;'

WHEREAS, The Constitution of this Diocese provides that 'no Church shall be 'admitted a member of this Convention, which does not, by its Charter or Arti-'cles of Association, expressly accede to the Constitution, Canons, doctrines,

'discipline, and worship of the Protestant Episcopal Church in the United States, 'and to the Constitution and Canons of the Protestant Episcopal Church in this 'Diocese';

WHEREAS, At the Convention of this Diocese in the year 1855, the Committee on Charters reported that the Articles of Association of St. Clement's Church, Philadelphia, were 'drawn in strict conformity to the form prescribed by the Convention'; whereupon said Church was admitted into union with this Convention;

AND WHEREAS, For a considerable time past, rumors have been prevalent and wide-spread—rumors, it may be, too readily repeated and too easily magnified—that practices and usages and modes of worship inconsistent with the Constitution and Canons, the doctrines, discipline and worship of the Protestant Episcopal Church, and even utterly subversive of her Protestant character, have been allowed and sustained by the Vestry of St. Clement's Church, to the scandal of the community, the disturbance of the peace of this Church, and the great pain and grief of her people. *Therefore*

Resolved, That a Committee of inquiry, consisting of — clergymen and — laymen, be appointed to ascertain the facts and recommend such action, if any, as they may deem expedient in the premises, and to report either to this or to the next Annual Convention".

Now, a careful perusal of the above shows that the following points are the gist of the whole thing:

1. It is assumed that it is the *Vestry* and not the clergy of a church who are responsible for inconsistency of "practices and usages and modes of worship * * with the Constitution and Canons, the doctrines, discipline and worship of the Protestant Episcopal Church"; an alleged inconsistency, in this case, avowedly with no other foundation than "rumors, it may be, too readily repeated and too easily magnified".
2. It is proposed to appoint a committee to do three things:
   (*a*) "Ascertain the facts";
   (*b*) "Recommend such action, if any, as they may deem expedient in the premises";
   (*c*) "Report either to this or to the next Annual Convention."

By a vote of the Convention the Committee was appointed, but did not report during the Session. Let us first consider the proposition to appoint a committee as above provided.

It was stated, in substance, on the floor of the Convention, during the discussion, that the appointment of the proposed Committee could, in any event, do no harm: that it might, after all, find out *nothing* reprehensible in the teachings and doings at St. Clement's, and in that case nobody would be the worse for the Committee's

labours: that all which it was empowered to do was to ascertain *facts* (and who would object to a statement of fact?); and that even if it found out any fact of wrong doing or wrong teaching, all it could do was to report such finding to the Convention and then give its "recommendation"—only a recommendation—of "such action as they may deem expedient in the premises." Surely all this is very harmless: it does not commit the Convention to any action: it simply is to get at what (in case the "rumors" have *not* been "too readily repeated and too easily magnified,") *may* enable the Convention to act intelligently, and not unadvisedly.

All this *may* be so, and yet one may say "timeo Danaos et dona ferentes." There are important considerations which do not appear upon the surface. Let us see.

The Committee will, in the nature of things, be able to arrive at only one of two conclusions, either that—

(*a*) as a matter of fact there are *not* doctrines and practices "inconsistent with the Constitution and Canons, the doctrine, discipline and worship of the Protestant Episcopal Church"; or,

(*b*) there are such doctrines and practices: and of course in the latter case the Committee are bound to state definitely and singly the doctrines or practices which are thus inconsistent: they are bound to cite each particular portion of the Constitution and Canons of the Protestant Episcopal Church in the United States as established by the General Convention thereof which defines and proscribes the error and inconsistency charged as belonging to the doctrine or practice at St. Clement's Church: or else they can occupy no other position than that of usurping powers reserved to the General Convention: that of substituting their opinions and preferences for law.

And this is just the danger which lies beneath the surface of this innocent looking proposition to appoint a committee to "ascertain facts" and "recommend such action, if any, as they may deem expedient in the premises."

This statement is made in view of the fact that in the last diocesan convention, in the discussion of this question, when attention was drawn to the absence of *law* bearing on the case as one of the preambles put it, it was practically claimed on the other side that such absence of law made no matter: in short that a diocesan convention had some *inherent* power which makes *law* rather unnecessary in dealing with alleged offenders against the doctrinal views of a majority of the Convention.

This appears to be a very loose and unsafe view for the guidance of such a body, especially when party feeling runs high. Then, even more than at any other time, we need to be guided strictly by law, lest wrong be done on one side or the other.

But let us admit, for argument's sake, that the Committee find that there actually exist in St. Clement's parish downright contraventions of the doctrines and practices prescribed by the Protestant Episcopal Church in the United States; that the "wide-spread rumors" simply state the facts of the case. What then?

Be it remembered we have now arrived at the point of admitting —for argument's sake—the discovery of actual wrong; of clearly proven "inconsistency with the Constitution and Canons, the doctrine, discipline and worship of the P. E. Church"; or, to put it as strongly as possible, the discovery of palpable, flagrant, indisputable violations of such Constitution and Canons &c., in St. Clement's parish.

The question is, "*how* shall this wrong be set right, this inconsistency be done away with, this violation stopped?"

The spirit and letter of the preambles and resolution, if they have any meaning or all, hold that the *Vestry* are responsible and are to be dealt with if any thing be done in the premises.

The spirit and letter of the Constitution and Canons of the Church, in marked contrast to this view, hold and teach that *not* the *Vestry* but the *Clergy* are responsible for error of doctrine or practice.

Church law says not one word (in this connection) about the legal corporation of the parish. Church law does say much and pointedly about the mode of holding the Clergy responsible and enforcing *their* canonical obedience, or, if they refuse it, inflicting, (but only *after a fair and open trial* in all cases but a renunciation of the Ministry or the Communion of the Church,) definite penalties made and provided.* There are only two cases, according to the law of the diocese of Pennsylvania, in which the lay element of a congregation can be deprived, either by a declaration of the Convention or by the nature of the facts of the case, of its right to send deputies to the Convention when that right has been once acquired.

One of these cases is provided for in the Constitution of the

* The suspension of a Clergyman absenting himself from his Diocese for five years is also provided for by Title II. Canon 7.

Church in the Diocese of Penna. (Art. IV of Constitution), and in these words:

"When any Church which has been admitted a member of the Convention of this Diocese shall, for three years, have made no parochial report to the same, no missionary report being made in its behalf, and, during the same period, shall neither have employed a clergyman as its parish minister, nor requested of the Bishop to have the services of a missionary, the said Church shall no longer have a right to send a Deputy or Deputies to the Convention; *and it shall be the duty of the Convention to declare the same.*"

Then follows a statement of how "such church shall again acquire that right."

The other of the cases is thus provided for by a Canon passed at the Convention in May last; and numbered as Canon 23: (Journal pp. 66 and 67.)

"Of Consecrated Churches and Chapels.

"It shall not be lawful for any Church or Parish in this Diocese to incumber or alienate, or suffer to become alienated, or cause to be removed or taken down or otherwise disposed of for any 'unhallowed, worldly, or common use', any consecrated Church or Chapel, without the previous consent of the Bishop, acting with the advice and consent of the President and Lay Members of the Standing Committee.

"Any Church or Parish violating this Canon shall forfeit its representation in the Convention of the Diocese".

These are absolutely the only cases according to the *law* of the Church in the Diocese of Pennsylvania where provision is made for the forfeiture of a right of lay representation in the Convention when that right has once been acquired.*

If the right of the *Vestry* of St. Clement's to send deputies to the Convention is to be *Canonically* taken away *on the ground of the prevalence of false doctrine or erroneous practices in that Parish*, it can only be after the adoption by the Convention of a new Canon which shall meet the exigencies of the case, and the title of it might as well be

"Of punishing the laity for the Sins of the Clergy."

Let some such Canon be passed, and let an effort be made to put it into practice, and the Civil Courts will clear away the cobwebs which seem to obscure correctness of vision in the matter of the rights of Corporations.

* A refusal by a Parish to submit to arbitration in case of differences between it and its minister also works a suspension of its right of representation in the Convention. (Title II. Canon 4. § ii. of the Canons of the General Convention.)

It is the Clergy, and the Clergy only, whom, in a case like St. Clement's, the law of the Church holds responsible. One would suppose, naturally, from the preambles and resolution, that no provision had been made for meeting doctrinal error and erroneous practice therefrom resulting, by holding the *Clergy* responsible. And yet there is most ample provision. There are pages of Canonical regulations for the presentment and trial of Clergymen—both Bishops and others. Canon XVII of the Pennsylvania Canons is very full in its provision for "The Trial of a Clergyman not being a Bishop"—for "crime or misdemeanor, by violation of the Canons or otherwise."

In view of all the facts of the case thinking men find themselves wonderingly asking "*Why* in the name of common sense is it sought to drive error out of the church in ways *not* provided for by law when the law does provide most full and effectual methods?" To this question various answers are given. Motives will be questioned when proposed methods are so peculiar.

And the question again presents itself: "How are the churchmen of Pennsylvania to be governed? by Canon Law? or Lynch Law?"

Do not let us meet the question at issue by any indirection. Let us have a definite principle established and a definite practice prescribed by law. The suggestion is respectfully offered to the Committee of inquiry that they present for the approval of the next Annual Convention of the Diocese of Penna., and *before* they bring in their report on St. Clement's Church, some such preambles, resolutions and Canon as follow:

Whereas, it is a well established principle of Ecclesiastical law and usage, that the Vestry of a Church or Congregation are appointed to teach the people of the same the truth in Spiritual things according to the Constitution and Canons &c. of the P. E. C. in the U. S. A., and especially those of the Diocese of Penna. consisting of the Counties of Philadelphia, Delaware, Montgomery, Chester and Bucks, without any regard to the Quod semper, ubique, et ab omnibus before the birth of Martin Luther, John Calvin and Ulric Zuingle; and

Whereas by the same principle of Ecclesiastical law and usage, the man who may be Rector of such Church or Congregation is utterly without responsibility except as the real estate agent of the parish and the purveyor of that intellectual attraction which will fill the pews and bring in a good revenue to the parish; therefore

Resolved, That in view of the above stated eternal fitness of the relations of things the Vestry shall be held responsible for the character of that Spiritual truth which it is their peculiar province to minister.

Resolved, That if error of doctrine prevail in any such Church or Congregation,

the Vestry as in duty bound shall be punished without law if possible, but by law if necessary, and the Rector shall still be allowed a seat and vote in the Convention.

Resolved, That the Convention adopt by a rising vote and without debate the following Canon, viz:

CANON ———.

"OF PUNISHING THE LAITY FOR THE SINS OF THE CLERGY."

"If error in doctrine or practice prevail or be alleged to prevail and any investigating Committee declare that it does prevail in any Church or Congregation in Union with this Convention, such Church or Congregation shall on a declaration of the alleged facts by the Convention be deprived of a right to send deputies to this Convention: but nothing in this Canon shall be construed to impair the right of the Clergy of such Church or Congregation to have a seat and to vote in said Convention. It is also hereby enacted that in the Diocese of Pennsylvania there is not of right now, nor shall there ever be, any binding force in the principle of law thus enunciated by Blackstone, namely, 'A Corporation cannot commit treason or felony, or any other crime * * * Neither can a Corporation be excommunicated; for it has no soul, as is gravely observed by Sir Edward Coke * * * and therefore it is not liable to be summoned into the Ecclesiastical Courts upon any account'."

To sum up.

There is abundance of law and minute description of methods for dealing with *Clergymen* who teach false doctrine and allow unlawful practices in the congregation where they minister.

There is no law whatever for dealing with *Vestries* where false doctrine or unlawful practices prevail.

There is a legal principle clearly enunciated by a universally acknowledged authority which distinctly asserts the impossibility of such dealing.

WHY were the Clergy passed by in the effort against alleged false doctrine and unlawful practices in St. Clement's parish?

"Peradventure it was an oversight"?